

HOUSE BILL 351

D1, N2
HB 769/10 – JUD

1lr2064

By: **Delegates Carter, Anderson, and Vallario**
Introduced and read first time: February 3, 2011
Assigned to: Judiciary

Committee Report: Favorable
House action: Adopted
Read second time: March 1, 2011

CHAPTER _____

1 AN ACT concerning

2 **Orphans' Court – Minors – Guardianship of Person**

3 FOR the purpose of providing that an orphans' court may exercise jurisdiction over
4 guardianship of the person of a minor regardless of whether the presiding judge
5 of the orphans' court is a member of the Bar of Maryland; providing for the
6 application of this Act; and generally relating to the jurisdiction of an orphans'
7 court over guardianship of the person of a minor.

8 BY repealing and reenacting, with amendments,
9 Article – Estates and Trusts
10 Section 13–105
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2010 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Estates and Trusts**

16 13–105.

17 (a) (1) The orphans' courts and the circuit courts have concurrent
18 jurisdiction over guardians of the person of a minor and over protective proceedings for
19 minors.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2) Upon petition of an interested person, a matter initiated in the
2 orphans' court may be transferred to the circuit court.

3 (b) Subject to Title 13.5 of this article, the circuit courts have exclusive
4 jurisdiction over protective proceedings for disabled persons.

5 (c) (1) An orphans' court may exercise jurisdiction over guardianship of
6 the person of a minor [if the presiding judge of the orphans' court is a member of the
7 bar], regardless of whether the minor who is the subject of the petition for
8 guardianship of the person has property, may inherit property, or is destitute.

9 (2) An orphans' court that exercises jurisdiction or is requested to
10 exercise jurisdiction under this subsection may:

11 (i) Transfer the matter to the circuit court on a finding that the
12 best interests of the child require utilization of the equitable powers of the circuit
13 court; and

14 (ii) Waive the costs, if any, of a transfer under this paragraph.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
16 construed to apply only prospectively and may not be applied or interpreted to have
17 any effect on or application to any petition for guardianship of the person of a minor
18 filed before the effective date of this Act.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.